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C O N F I D E N T I A L SECTION 01 OF 02 PRETORIA 003985

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SUBJECT: ABYEI BOUNDARY COMMISSION MEMBER GUTTO SAYS  
EXPLAINING REPORT CRITICAL

REF: PRETORIA 3916

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Classified By: Political Counselor Raymond Brown. Reasons 1.4(b) and (d).

11. (C) SUMMARY. Abyei Boundary Commission (ABC) member Shadrack Gutto suggested that ABC experts present their findings to influential fora, such as IGAD, Arab League, AU, and UN, as a way to encourage Khartoum to implement the report. Explaining the ABC report to as many people as possible "is the best we can do" at this stage. Gutto recommended that the African Union play a greater role on the Abyei issue. President Mbeki privately pressed President Bashir to implement the ABC report during their November 6 Cape Town meeting, Gutto said. END SUMMARY.

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ABC Report Fair, Transparent  
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12. (C) Shadrack Gutto, Professor at the University of South Africa (UNISA), told PolOff November 9 that he was "proud" of the role he played on the Abyei Boundary Commission in Sudan (see para 9 for bio-note on Gutto). (NOTE: Gutto was one of five international experts on the Commission, which was tasked with demarcating the border between the Arab Misseriya and Ngok Dinka ethnic groups as of 1905, as mandated by the Comprehensive Peace Agreement. END NOTE.) Gutto said the Commission followed a fair and transparent process, allowing both sides to present extensive testimony and evidence. Gutto described to PolOff the Commission's decision-making process in detail, noting that the Commission's task was difficult since there was no map from 1905. The first map of the region was from 1907, and subsequent maps were increasingly unreliable. According to Gutto, the maps drawn by the two parties were not credible, since they pushed the boundaries either "way North" (SPLM map) or "way South" (GOS map). Furthermore, the Commission also found that much of the testimony was not credible since the witnesses had been coached.

13. (C) Concluding that there was no clearly demarcated boundary in 1905, the Commission found that much of the disputed territory was a "shared area," with both sides having equal claim. The Commission thus decided to draw a equidistant line through the middle of the shared area. Under the "final and binding" ABC report, the Ngok and the Misseriya retain rights to use the land north and south of

the boundary.

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Khartoum Objects; GOSS Pleased  
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¶4. (C) Gutto said that the Government of Sudan initially welcomed the Abyei Boundary Commission visit to Khartoum in July 2005 -- until the Commission presented its report. Following the presentation, members of the northern government walked out and began attacking the Commission's report.

-- Khartoum first argued that the lack of an accurate map from 1905 meant that there was no boundary, and thus the Commission's decision was illegitimate.

-- The northern government then claimed that the Commission was biased since the five international experts were Christian, which was false since two of the Commission members, including Gutto, were not Christian.

-- More recently, Khartoum has alleged that the Commission "exceeded its mandate," without explaining what they meant.

¶5. (C) The Commission expert members traveled to Juba in September 2007 to present the report to the Government of South Sudan (GOSS) and answer questions about their findings. QSouth Sudan (GOSS) and answer questions about their findings. A large number of GOSS officials and civil society organizations attended their presentation.

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Explaining ABC Report Critical  
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¶6. (C) Gutto said Commission experts stood ready to explain

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their findings to "any credible forum." At this stage, "this is the best we can do," Gutto said. "We need to inform people about the Commission's work so they can influence Khartoum." Gutto suggested that the experts brief the Intergovernmental Authority on Development (IGAD) Support Forum, the Comprehensive Peace Agreement (CPA) Assessment and Evaluation Commission, the African Union, the Arab League, and/or the UN on the Commission's findings. He said that the AU should play a greater role in pressing Khartoum to implement the Abyei decision.

¶7. (C) The "first prize" for the Commission would be to return to Khartoum to explain the findings again to "whatever structures will listen," including perhaps the legislature, cabinet, judiciary, and civil society organizations.

¶8. (C) Gutto has privately briefed the South African Department of Foreign Affairs and the South African National Defence Forces (SANDF) officials on the ABC report. Mbeki personally understands the Abyei issue, Gutto said, and pressed President Bashir to implement the ABC report during the Sudanese leader's November 5-7 visit to South Africa (reftel).

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Bio-Note  
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¶9. (C) Professor Shadrack Gutto is Director of the Centre for African Renaissance Studies (CARS) at the University of South Africa (UNISA). He previously served as Associate Professor at the School of Law at Witswatersrand University. A specialist in constitutional law, particularly human rights, land resources, and the environment, Gutto helped draft a number of South African laws on land reform, housing, and equality. More recently he served as chair of the South African Government Working Group on Foreign Land Ownership.

Born and educated in Kenya, Gutto taught in Zimbabwe from 1982 to 1988, when he was declared "persona non grata" by the Government of Zimbabwe. Gutto is a frequent commentator on South African politics and land reform. Post has found Gutto to be intelligent and open to meeting with USG officials, albeit at times ideological, and tends to think in academic rather than practical terms.

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